

BILL ANALYSIS

C.S.H.B. 2001

By: Dutton

Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Family Code provides for the establishment and enforcement of child support and medical support obligations in suits affecting the parent-child relationships. Among the provisions of the Family Code are procedures for the ordering of medical support for a minor child in a suit affecting the parent-child relationship (Chapter 154) or in a proceeding under the Uniform Interstate Family Support Act (Chapter 159).

Many of the procedures laid out in the Family Code with respect to the establishment, modification, and enforcement of child support and medical support for a child have resulted from mandates under federal law relating to requirements that must be met by states in order to receive federal funding both for their child support enforcement programs (under Title IV-D of the Social Security Act - the "IV-D" program administered in Texas through the Child Support Division of the Office of the Attorney General) and for their cash welfare programs ("Temporary Assistance for Needy Families" - TANF, administered in Texas through the Department of Human Services).

In the Omnibus Budget Reconciliation Act of 1993 (OBRA) (Pub. L. 103-66), Congress attempted to remove some of the impediments to state IV-D agency attempts, to secure and enforce medical coverage for children in IV-D cases. OBRA contained many improvements that facilitated obtaining and enforcing medical coverage, including the creation of "qualified medical child support orders" (QMCSOs) to obtain coverage for dependent children of employees from group health plans subject to the Employee Retirement Income Security Act of 1974 (ERISA).

Despite improved state procedures mandated by federal law for the establishment and enforcement of medical support for children, states have experienced continuing difficulty in satisfying specific conditions of ERISA, particularly with respect to informational requirements and restrictions against requiring new types or forms of benefits. The OBRA remedy of the QMCSO did not fully address the needs and concerns of sponsors and administrators of groups health plans (as defined under Section 607 of ERISA).

Under Section 401 of the Child Support Performance and Incentive Act of 1998 (CSPIA), Congress required the Secretaries of the federal departments of Health and Human Services and Labor jointly to develop and promulgate a federal "National Medical Support Notice" for the enforcement of the medical support obligations of non-custodial parents in Title IV-D cases.

The purpose of C.S.H.B.2001 is to bring Texas into compliance with the federal requirement under 42 U.S.C. Section 666(a)(19) that all state IV-D agencies use the National Medical Support Notice to enforce the health care coverage provision in a child support order. Specifically, it requires the state's Title IV-D agency to use the Notice in appropriate cases and, under the agency's existing rule-making authority (Section 231.002, Family Code), to establish procedures for the use of the Notice. Although not part of the federal requirement, the bill also extends the use of the Notice to child support cases not being enforced by the Title IV-D agency.

The failure of Texas to comply with the federal mandate to use the National Medical Support Notice in appropriate Title IV-D cases and to make state law effective July 1, 2003, puts Texas at risk of losing all federal funding for its child support enforcement program and its cash assistance (TANF) program, which

in SFY 2003 has amounted to nearly \$712 million.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Title IV-D agency in SECTION 1 (Section 154.186, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 154.186, Family Code, to add Subsection (b) to require the Title IV-D agency to use the National Medical Support Notice in appropriate cases. The notice also may be used in any other suit in which an obligor is ordered to provide health insurance coverage for a child. Additionally, subsection (c) authorizes the Title IV-D agency by rule to establish procedures for the use of the notice, as well as prescribe forms for the efficient use of the notice consistent with federal requirements. The agency shall provide the notice and forms, on request, to obligees, obligors, domestic relations offices, friends of the court, and attorneys.

SECTION 2. Amends Section 154.187, Family Code, to require an employer who receives the National Medical Support Notice to implement its use to comply with the requirements of the medical support order or notice.

SECTION 3. States an effective date of July 1, 2003, conforming to the federal requirement [65 Fed. Reg.82166] that state law requiring the use of the National Medical Support Notice must be effective no later than the close of the first day of the first calendar quarter that begins after the close of the first regular session of the state legislature that begins after October 1, 2001. This effective date is dependent upon the vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, otherwise the effective date is September 1, 2003.

EFFECTIVE DATE

July 1, 2003, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.2001 modifies the original H.B.2001 by providing that the notice may be used in any other suit in which an obligor is ordered to provide health insurance coverage for a child. C.S.H.B.2001 also provides that the agency shall provide the notice and forms, on request, to obligees, obligors, domestic relations offices, friends of the court, and attorneys. Finally, C.S.H.B.2001 requires an employer who receives the National Medical Support Notice to implement its use to comply with the requirements of the medical support order or notice.